

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 4, 2004 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #04002

PROPOSAL: To allow the sale of alcoholic beverages for consumption on the premises.

CONCLUSION: The licensed premises complies with all the applicable criteria for a special permit for the sale of alcohol, including being located in excess of 100' away from a residence, a residential district, and a day care facility. This request complies with the requirements of the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Mark Plaza, Lincoln, Lancaster County, Nebraska

LOCATION: 1265 South Cotner Blvd

EXISTING ZONING: B-1 Local Business

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Park	P
South:	Commercial	B-1
East:	Commercial	B-1
West:	Commercial	B-1

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area

BACKGROUND:

The premises is Suite 10 of the Piedmont Shops located at South 50th Street and Cotner Blvd. The current business, Sunrise Coffee Company, LLC, is proposing to also serve alcohol for consumption on the premises in conjunction with the coffee shop. The applicant states that alcohol sales will be limited to 5 p.m. to 10 p.m. nightly, and Saturday afternoons.

This request will be considered on the same agenda as CZ#04003, which is a text amendment to revise Sections 27.63.680 and 27.63.685 of the Zoning Ordinance. One of the applicable changes in the proposed amendment affects the 100' separation to alcohol sales. It modifies the list of uses that must be 100' away by deleting residences and adding parks, churches, or state mental institutions. The proposed amendment also eliminates mitigation. It should be noted that while this special permit request complies with the current provisions of Section 27.63.680, it is located approximately 80' away from Piedmont Park and would not comply with the proposed amendment as drafted at the time this report was written.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which may be waived by the City Council:

(a) Parking shall be in accordance with LMC Section 27.67.020.

As a restaurant, the coffee shop was already required to meet the off-street parking requirement of one space per 100 square feet of gross floor area.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

The area defined as the licensed premises is Suite 10, a commercial bay (shown as bay #15 on the attached site plan) in the north tier of Piedmont Shops. The approximate separation distances are as follows (distances are measured from the licensed premises):

	Residence	Residential District	Day Care
East	300'	250'	n/a
West	286'	258'	n/a

As noted previously, an amendment to LMC Section 27.63.680 is being proposed. As of this writing, one of the proposed changes is to require that the licensed premises for alcohol sales be more than 100' away from a day care facility, park, church, state mental institution, or a residential district (except where such use is accessory to a golf course or country club).

This request complies with all the applicable criteria in the Zoning Ordinance. However, if it was reviewed using the proposed criteria in CZ#04003 it would not comply with one of them, as the licensed premises is only approximately 80' away from Piedmont Park north of the shopping center. The Law Department is investigating how previously approved permits which do not comply with the proposed amendment would be affected if it is enacted. An amendment to the Zoning Ordinance will be proposed by the Law Department if necessary.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

No additional lighting is proposed as part of this request.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not being proposed.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are proposed with this special permit.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the

residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

Neither the front nor rear doors of the premises are within 150' of a residential district, the nearest of which is in excess of 250' away.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

The access points to the shopping center are from South Cotner Blvd (a major street) and South 50th Street (a residential street). The primary access is to Cotner Blvd.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**

Planning Commission review and City Council approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department does not object to this request.

PUBLIC WORKS: Public Works and Utilities does not object to this request.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises at 1265 South Cotner Blvd as shown on the attached site plan.

Standard:

2. The following conditions are applicable to all requests:
 - 2.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 2.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

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Planner
January 20, 2004

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APPLICANT Mark Seacrest
Sunrise Coffee Company
1265 South Cotner Blvd, Suite 10
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(402) 488-6161

OWNER: Randall Nelson
6320 Yellowstone Circle
Lincoln, NE 68510
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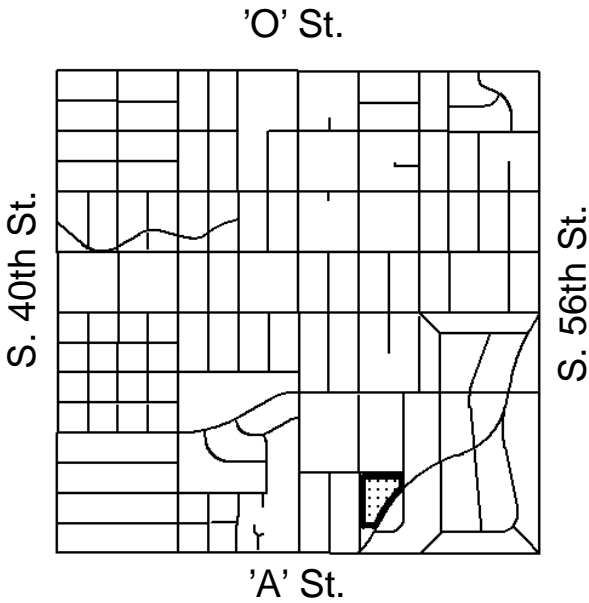
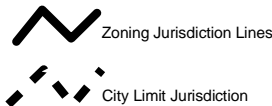
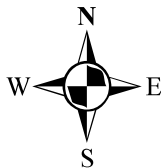
2002 aerial

Special Permit #04002 **1265 S. Cotner Blvd**

Zoning:

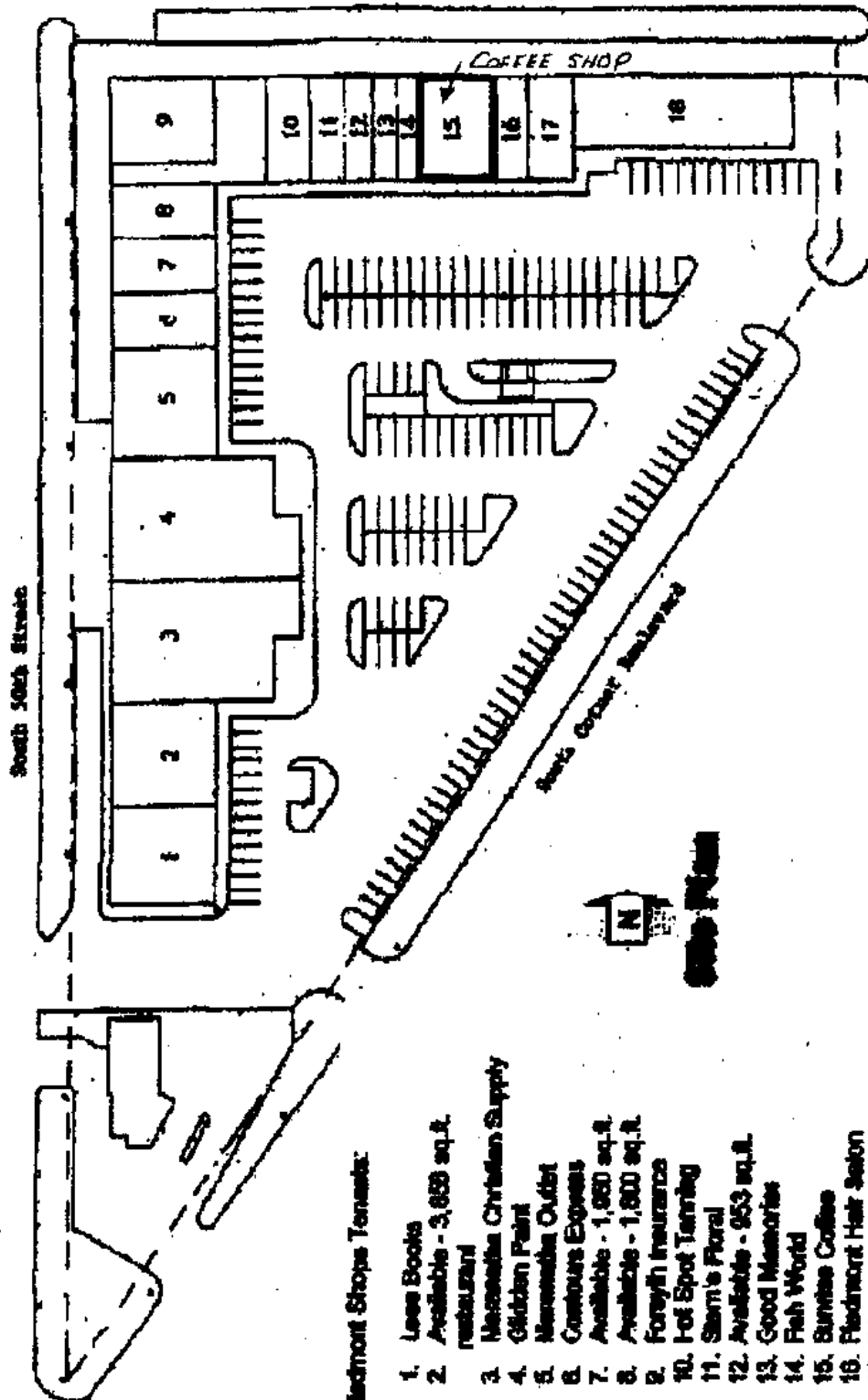
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
 Sec. 29 T10N R7E



Park Area

"C" street



Piedmont Shops Tenants:

1. Lees Books
2. Available - 3,853 sq.ft.
restaurant
3. Macedonia Christian Supply
4. Golden Point
5. Macedonia Outlet
6. Contours Express
7. Available - 1,050 sq.ft.
8. Available - 1,800 sq.ft.
9. Foreyth Insurance
10. Hot Spot Tanning
11. Stern's Floral
12. Available - 953 sq.ft.
13. Good Memories
14. Fish World
15. Sunrise Coffee
16. Piedmont Hair Salon
17. Edward Jones
18. Four Star Drug

The Piedmont Shops

Statement of Purpose

Applying for a special permit to serve alcohol or alcoholic beverages at Sunrise Coffee Co. LLC located in the Piedmont Shops, 1265 South Cotner Blvd. Suite 10, Lincoln, NE. 68506.

Location is currently a coffee shop with hours from 7 to 6 Monday - Friday and shorter hours on Weekends. Location will remain a coffee shop but plan to serve alcohol beverages evenings between hours of 5 to 10 p.m. and possibly Saturday afternoons.

Mark Seacrest

1/5/2004